

The Director of the Office of Fair Housing and Equal Opportunity ("FHEO") for the New York/New Jersey Region, on behalf of the Assistant Secretary for FHEO, has authorized this Charge because he has determined after investigation that reasonable cause exists to believe that

a discriminatory housing practice has occurred. HUD's efforts to conciliate this case were unsuccessful. *See* 42 U.S.C. § 3610 (b).

LEGAL AUTHORITY IN SUPPORT OF CHARGE

1. It is unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such a dwelling, because of a handicap of that person. 42 U.S.C. § 3604 (f) (2) (A).
2. Discrimination includes a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person with a handicap equal opportunity to use and enjoy a dwelling. 42 U.S.C. § 3604 (f) (3) (B).

PARTIES

3. Complainant, _____, suffers from peripheral vascular and coronary artery disease. Complainant also suffers from a non-healing wound in his lower extremity. He has had quadruple by-pass heart surgery in August 2008. Complainant's impairments, especially his non-healing wound, severely limit his ability to walk distances and he therefore is a person with a handicap within the meaning of the Fair Housing Act. 42 U.S.C. § 3602 (h).
4. Respondent Heatherwood-Norwich Gate LLC is the owner of the housing complex located at 600 Pine Hollow Road, East Norwich, NY. The subject property consists of 348 units.

FACTUAL ALLEGATIONS IN SUPPORT OF CHARGE

5. Complainant resides in apartment _____, 600 Pine Hollow Road, East Norwich, New York with his wife. Their apartment is a "dwelling" within the meaning of the Act.
6. Complainant's uses a cane and a walker to assist him when walking. At times he also uses a wheel chair.
7. The subject property has 634 parking spaces, 35 of which are handicapped accessible spaces.
8. Residents and visitors to the subject property use the parking spaces on a first-come, first-served basis. Respondent does not assign any of its parking spaces on an individual basis.

9. Complainant resides relatively close to four of the accessible parking spaces. However, Complainant cannot utilize two of those spaces because it would require him to traverse an incline to reach his residence.
10. The two remaining accessible spaces ("accessible spaces") are frequently unavailable to Complainant because they are occupied by other residents of, or visitors to, the subject property.
11. Complainant has therefore requested on a number of occasions that Respondent designate one of the accessible spaces close to his apartment for his exclusive use, as a reasonable accommodation.
12. Respondent has refused to modify its first-come, first served parking policy to accommodate Complainant's request.
13. By letter dated September 8, 2009, Complainant's doctor, _____, stated, among other things, that Complainant's non-healing, lower extremity wound rendered Complainant unable to ambulate long distances. Dr. _____ also stated that because of his medical condition, Complainant required an accessible parking space at all times.
14. Despite being given a copy of Dr. _____ letter, Respondent continues to deny Complainant's reasonable accommodation request for a designated accessible parking space close to his residence.
15. Because Respondent has failed to grant Complainant a reasonable accommodation, he has suffered damages, including emotional and physical distress.

FAIR HOUSING ACT VIOLATIONS

16. Respondent has violated the Act because it has discriminated against Complainant in the terms, conditions or privileges of a sale of a dwelling, or in the provision of services or facilities in connection with such a dwelling, by refusing to make a reasonable accommodation in its rules, policies, practices, or services, when such an accommodation was necessary to afford Complainant equal opportunity to use and enjoy his dwelling. 42 U.S.C. § 3604 (f) (2) (A) and (f) (3) (B); 24 C.F.R. § 100.204.

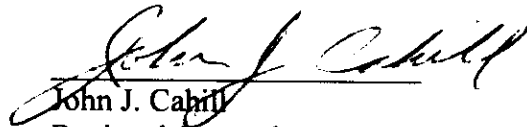
CONCLUSIONS

WHEREFORE, the Secretary of HUD, through the office of the General Counsel, and pursuant to 42 U.S.C. § 3610 (g) (2) (A), hereby charges Respondent with engaging in discriminatory housing practices in violation of 42 U.S.C. §§ 3604 (f) (2) (A), and (f) (3) (B) and prays that an order be issued that:

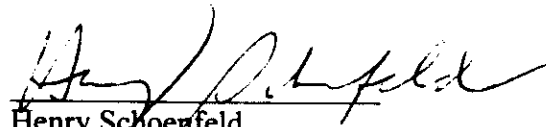
1. Declares that the discriminatory housing practice of Respondent as set forth above violates the Fair Housing Act, 42 U.S.C. §§ 3601-3619;

2. Enjoins Respondent, its agents, employees, and successors, and all other persons in active concert or participation with it, from discriminating because of handicap status against any person in any aspect of the sale, rental, use, or enjoyment of a dwelling pursuant to 42 U.S.C. § 3612 (g) (3);
3. Enjoins Respondent to assign Complainant a handicapped accessible parking spaces near his residential building;
4. Awards such damages pursuant to 42 U.S.C. §3612 (g) (3) as will fully compensate Complainant for damages caused by Respondent's discriminatory conduct;
5. Assess a civil penalty in the amount of \$16,000 against Respondent for each violation of the Act pursuant to 42 U.S.C. § 3612 (g) (3) and 24 CFR § 180.671; and
6. Awards such additional relief as may be appropriate under 42 U.S.C. §3612 (g) (3).

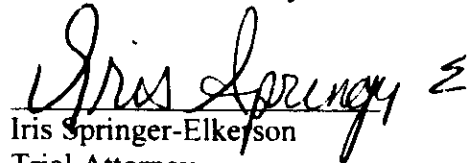
Respectfully submitted,



John J. Cahill
Regional Counsel
New York/New Jersey Office



Henry Schoenfeld
Associate Regional Counsel
New York/New Jersey Office



Iris Springer-Elkerson
Trial Attorney
Office of Regional Counsel
U.S. Department of Housing
and Urban Development
26 Federal Plaza, Room 3500
New York, NY 10278-0068
(212) 542-7208

Date: September 28, 2010